

OGC Has Reviewed

6 August 1973

MEMORANDUM FOR: Executive Secretary
Suggestion Awards Committee

SUBJECT: Suggestion No. 73-216

1. Suggestion No. 73-216 proposes that the Agency abandon the use of special secrecy agreements in connection with compartmentation systems. We have been requested to advise whether the use of such agreements affords legal protection additional to that resulting from the signing of the secrecy agreement at the time of entering on duty as a CIA employee.

2. The Marchetti decision hinges in part on the fact that a secrecy agreement was signed by Marchetti when he entered on duty. Further, the Court of Appeals is clear that the secrecy agreement signed when his employment terminated added nothing to the government's legal rights in the matter, since the termination agreement lacked consideration. It is at least arguable that there is consideration in the compartmentation secrecy agreements, namely, that only if the employee signs, is he given certain assignments, duties, and opportunities. Although this consideration may not be as solid or as persuasive as is that involved in the entrance on duty secrecy agreement (only upon signing the agreement is the individual hired), I believe it exists and would be accepted by a court. Accordingly, it is our view that there is legal value in the use of such agreements. In addition, such agreements could have evidentiary value in the event of a trial for violation of section 793 or 794 of Title 18. Consequently, we would recommend continuation of execution of such agreements. 25X1A

JOHN S. WARNER
Acting General Counsel

Att: Suggestion No. 73-216

OGC:RHL:JSW:cav:mks

Orig - Adse

✓ 1 - OGC Subj. AWARDS, GIFTS AND COMMENDATIONS
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